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| 10/659,712      | 09/11/2003  | Bernd Stadler        | 028987.52701US      | 4760             |

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/659,712

Applicant(s)

STADLER ET AL.

Examiner

Justin M. Larson

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/11/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 21 is/are rejected.
- 7) ☒ Claim(s) 19, 20 and 22-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/11/03 and 2/3/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

***Information Disclosure Statement***

1. The information disclosure statements (IDS) submitted on 9/11/03 and 2/3/04 are noted. The submissions are in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statements.

***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 24. Also, they do not include the following reference sign(s) mentioned on page 6 of the description: 18d.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it contains the legal phraseology "means" in line 3. Correction is required. See MPEP § 608.01(b).
5. The disclosure is objected to because of the following informalities: It appears as though paragraph [0036] is intended to reference Figure 10, not Figure 1 as is currently written. Appropriate correction is required.

### ***Claim Objections***

6. Claim 1 is objected to because of the following informalities: It appears as though applicant omitted a word before "respectively" in line 11 while attempting to claim the free ends of the profiled carriers being connected in two locations, one being the adjusting lever, the other being the omitted word. Appropriate correction is required.
7. Claim 5 is objected to because of the following informalities: "Profile carriers" of lines 1 and 2 should be rewritten as "profiled carriers".

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-13, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear whether applicant is intending to claim a single loading element that can be projected inclinedly downward on either side of a vehicle, or multiple loading elements that can each only be projected inclinedly downward on a single side of a vehicle. Specifically, the use of "on each vehicle side" in lines 5 and 8 render the claim indefinite. The phrase "a load carrier which comprises a loading element" in line 2 implies that only one loading element is being claimed. Also, in the drawings, two loading elements are shown. Finally, it is also unclear to which profiled carriers "the free ends of the profiled carriers" is referring; the swivellable profiled carriers or the stationary profiled carriers.

In claim 5, it is unclear as to what surface "the surface" of line 3 is referring. Also, it is unclear as to what profiled carrier "the profiled carrier" of line 4 is referring.

In claim 6, it is unclear as to what profiled carriers "the profiled carriers" of lines 2 and 3 is referring.

In claim 7, it is unclear as to what profiled carriers "the profiled carriers" of lines 2 and 3 is referring.

In claim 9, it is unclear as to what profiled carrier "the profiled carrier" of line 3 is referring.

Claim 10 recites the limitation "the spring element" in line 1. There is insufficient antecedent basis for this limitation in the claim. Also, it is unclear as to what profiled carrier "the profiled carrier" of line 2 is referring.

Claim 11 recites the limitation "the opposite profiled carriers" in line 3. There is insufficient antecedent basis for this limitation in the claim. Also, it is unclear as to what profiled carriers "the profiled carriers" of lines 2 and 3 is referring.

In claim 12, it is unclear as to what profiled carrier "the profiled carrier" of line 3 is referring.

In claim 18, it is unclear as to what surface "the surface" of line 3 is referring.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-5, 8, 14-18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Szigeti (6,158,638). Szigeti discloses a roof rack for a vehicle having a basic carrier which can be fixed on a vehicle roof (Figure 1) and can be connected with a load carrier which comprises a loading element (30/40/82) which, in a loading position, projects inclinedly downward from the load carrier on at least one vehicle side, wherein the load carrier in each case consists of two transversely extending stationary profiled carriers (10/14/16 & 20/24/26) in which, on each vehicle side (col. 1 lines 15-

17), the loading element consisting of a load-bearing structure is displaceably guided by way of adjusting levers (50 & 60) into an extended inclined loading position and into a retracted transport position on the vehicle roof, and, on each vehicle side, the loading element consists of two swivellable profiled carriers (30 & 40) with a connecting carrier rod (82) on the end side, and the free ends of the profiled carriers facing away from the carrier rod are each connected with the adjusting lever; wherein the adjusting lever is held with its one end by way of a pin (52) in a swivellable manner in the swivellable profiled carrier and, with its other end, which faces away, is displaceably arranged by way of a sliding element (54) in the stationary profiled carrier of the load carrier; wherein, in the inclined loading position, the adjusting lever (50) is held with a first supporting surface on a stationary stop (Figure 2, shortest, left-most interior surface of slot 12) of the stationary profiled carrier; wherein the first support surface of the adjusting lever (support surface of the adjusting lever in that it is the surface that supports the adjusting lever), in the inclined loading position, is arranged in a vertical plane (the surface itself is vertical) and is situated opposite a corresponding surface of the stop (Figure 2, shortest, right-most interior surface of slot 12), and a second supporting surface (Figure 2, underside surface of adjusting lever 50) on the adjusting lever is arranged with respect to the swivellable profiled carrier at an angle with respect to the first supporting surface of the adjusting lever (Figure 1 shows that surface of the adjusting lever at an angle); wherein the swivellable profile carriers have a support (15 or 17) on the free ends of the stationary profiled carriers and, by way of the adjusting lever (50), can be supported on the stationary stop (12) and, by way of the surface, on

an interior surface of the profiled carrier (the surface, Figure 2, shortest-left-most interior surface of slot 12, supports the adjusting lever, which in turn contacts both of the swivellable and stationary profiled carriers via pins 52 & 54 on their interior surfaces, making the swivellable profiled carriers effectively supported by way of the surface); and wherein, on the end side of the profiled carriers, one adjustable locking pin (70) respectively is held which, in the transportation position, projects into a corresponding opening (72) of the stationary profiled carrier and, in the loading position, is arranged in an exposed manner with respect to the opening (the pin is protruding or visible with respect to the opening, thus exposed).

#### ***Allowable Subject Matter***

12. Claims 6, 7, 9-13, and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Claims 19, 20, and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

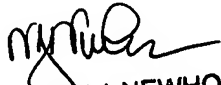
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on M-Th 7-5:30.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER